

Appl. No. 10/719,755
Docket No. 9447
Amdt. dated February 28, 2007
Reply to Office Action mailed on January 3, 2007
Customer No. 27752

REMARKS

Claim Status

Claims 17-20 have been canceled, without prejudice. Applicants reserve the right to file these claims in one or more divisional applications since they were the subject of an earlier Restriction Requirement. Claims 1-16 stand rejected under 35 U.S.C. § 103(a).

Rejection

Claims 1-16 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Schraer *et al.* (U.S. Patent No. 6,274,127; hereinafter "Schraer") in view of Swaile (U.S. Patent No. 6,149,897; hereinafter "Swaile"). Applicants respectfully disagree.

In the Background Section of the application, Applicants describe their identified shortcoming with the existing art:

Antiperspirant actives help to reduce or eliminate perspiration on the underarm or other areas of the skin. It is believed that these antiperspirant actives work by dissolving in sweat after application, diffusing as a dissolved material into the sweat ducts, and then precipitating in the sweat ducts to form a plug that inhibits the flow of perspiration. Although the antiperspirant actives are capable of providing this function, the actives are not able to achieve optimum performance due to their inability to adhere to the skin. After application, most of the actives flake off or are transferred from the skin onto clothing or other material thereby leaving only a minimal amount of active available to inhibit the flow of perspiration. See page 1, lines 13-22.

Accordingly, the problem is that antiperspirant active material is not available to form plugs when sweating begins since it has flaked off or otherwise transferred away from the skin. Applicants have discovered a novel composition to address the above-noted problem. The composition comprises a skin-adhering system including a skin-adhering polymer and one or more volatile solvents; an antiperspirant active; a thickening agent; and an anhydrous carrier.

The Examiner relies on the disclosure of Schraer to read on all of the recited features of the rejected claims except for: "a volatile solvent, the glass transition

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temperature of the skin-adhering polymer, [and] the film-formation at or above the entanglement molecular weight of the polymer." See Office Action at page 3. Applicants however disagree that Schraer teaches a composition having both a skin-adhering polymer and a separate thickening agent.

To meet the skin-adhering polymer feature recited in the claims, the Examiner cites the water-reactive monomers disclosed by Schraer. However, these monomers, as taught by Schraer, are not intended to polymerize into a film until activated by sweat or water (see column 3, lines 50-67; and column 4, line 63 to column 5, line 2). Thus, these water-reactive materials within the composition prior to application to the skin and upon application to the skin and prior to being triggered by sweat or water are in not in the form of a skin-adhering polymer. As noted above, Applicants have discovered the need for a skin-adhering polymer to adhere the antiperspirant active to the skin prior to a sweat event to that the active is available to thereafter form plugs. Accordingly, Schraer's monomers would not address the Applicant-identified problem.

The Examiner also cites materials within Schraer's list of suspending/thickening agents to meet the skin-adhering polymer feature recited in the claims. By doing this however, the Examiner is improperly relying on a single component (and notably, an "optional" component") to read on two separate and distinct features—a skin-adhering polymer and a thickening agent—that are recited in the rejected claims. Schraer discloses a "laundry list" of materials that may be used for an optional component in the compositions. There is clearly no teaching of employing two separate, optional suspending agents in the Schraer compositions. The examples in Table 1 support this conclusion. Discounting the water-reactive monomers, as distinguished above, the examples do not disclose a composition having a skin-adhering polymer and a separate thickening agent.

In view of the foregoing, Applicants respectfully submit that Schraer fails to disclose a composition having a skin-adhering polymer and a separate thickening agent. And since Swaile does not remedy the shortcomings of Schraer, the claimed inventions are patentably distinct from the combination of these references.

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Applicants further submit there is no motivation or suggestion to the skilled artisan to modify the Schraer composition to include a volatile solvent disclosed by Swaile. The Examiner notes that Swaile teaches an anhydrous composition employing ethanol. Ethanol serves as a liquid carrier material in the Swaile composition. Schraer also employs a liquid carrier material (see disclosure from column 4, line 44 to column 6, line 8), but the carrier is not a volatile solvent. There is no suggestion from either reference to exchange a volatile solvent for one of the liquid carrier materials taught by Schraer. There is also no motivation to the skilled artisan for this exchange since Schraer is silent regarding any shortcomings or disadvantages associated with the plethora of disclosed carrier materials. Accordingly, there is no motivation or suggestion to combine the teachings of Schraer and Swaile to arrive at the compositions as recited in the rejected claims.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under Sections 103. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, reconsideration of this application and allowance of claims 1-16 are respectfully requested.

Respectfully submitted,

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By


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